LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6607 | **NOTE PREPARED:** Dec 3, 2003
BILL NUMBER: HB 1008 | **BILL AMENDED:**

SUBJECT: Local Excise Tax Authority.

FIRST AUTHOR: Rep. Lytle | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: This bill authorizes a fiscal body of a city, town, or county to impose any of the following local taxes: (1) A supplemental auto rental excise tax. (2) A local innkeeper's tax. (3) A food and beverage tax.

Effective Date: July 1, 2004.

Explanation of State Expenditures: Under the bill, revenue generated from a food and beverage tax or supplemental auto rental excise tax would be submitted by retail vendors to the Department of State Revenue for processing in the same manner as the state Sales Tax. If a unit were to adopt the supplemental auto rental excise tax, the taxing agent may elect to remit the revenue with the state Auto Rental Excise Tax. A unit that were to adopt an innkeeper’s tax, under the bill, may elect for the Department to collect and process the revenue for the unit.

Current cost for the Department of State Revenue to administrate, audit, and collect local taxes is approximately $0.51 per $100 of revenue. The Department’s current resources are sufficient to absorb the additional costs associated with this proposal.

Explanation of State Revenues:

Explanation of Local Expenditures: (1) *Food and Beverage Tax:* Under the bill, after January 1 but before August 1 in a given year, the fiscal body of a local unit of government (county, city, or town) could pass an ordinance to adopt a food and beverage tax. The tax would be 1% of the gross retail income received in a transaction of a food or beverage prepared, furnished, or served. (Six counties and five municipalities have already adopted a food and beverage tax.)

The local unit would be required to hold a public hearing to discuss a proposed ordinance to impose the tax before the unit may adopt the ordinance. The effective date would be January 1 in the year following the year of adoption of the ordinance. If the adopting unit is a county, the county executive in certain counties would also be required to adopt an ordinance to impose this new tax. The county executive would be required to send a copy of the ordinance to the Department of State Revenue.

If a local unit imposed a food and beverage tax, that unit would receive monthly payments from collections of the tax from the Treasurer of State on warrants issued by the Auditor of State. The Department of State Revenue would notify the fiscal officer of the amount of tax paid to the unit.

The fiscal officer would be required to establish a food and beverage tax revenue fund for revenue received from the Treasurer of State.

(2) *Supplemental Auto Rental Excise Tax:* A local unit of government (county, city, or town) would be able to adopt a supplemental auto rental excise tax under the bill. An ordinance would have to be adopted by the unit fiscal body to impose the tax. The tax would apply to passenger vehicles rented for a period less than 30 days. The tax rate would be 5% of the gross retail income received by a retail merchant for a rental of a passenger vehicle. If a unit were to adopt a supplemental auto rental excise tax, the unit would be required to send a copy of the ordinance to the Department of State Revenue.

If a fiscal body were to adopt a supplemental auto rental excise tax before June 1, the tax would apply to rentals made after June 30 of the year in which the ordinance were adopted. If a fiscal body were to adopt the tax after May 31, the tax would apply to rentals after the last day of the month in which the ordinance would have been adopted.

The following rentals would be exempt from a supplemental auto rental excise tax: trucks exceeding 11,000 pounds; rental of a vehicle by a licensed funeral director; rental made while an individual's personal vehicle is repaired while under warranty for defect; rental in lieu of a contract for mechanical breakdown insurance, auto collision insurance, or auto comprehensive insurance for a vehicle damaged or destroyed in a collision; or rental made while an individual's personal vehicle is either being repaired or replaced due to destruction.

The supplemental auto rental excise tax would be imposed, paid, and collected in the same manner as the state Sales Tax. All revenue collected from a supplemental auto rental excise tax would be deposited in the unit's supplemental auto rental excise tax account of the state General Fund. Within 20 days after the start of each month, the amount in the unit's account would be distributed by warrant issued by the Auditor of State. The warrant would authorize the Treasurer of State to distribute the revenue to the taxing unit.

(3) *Innkeeper's Tax:* Under the bill, a county, city, or town would be able to adopt an innkeeper's tax. A local unit of government would have the option to adopt an additional ordinance that would require the tax to be paid to the unit fiscal officer on forms prescribed by the officer. If the unit does not elect for their fiscal officer to process the tax, the tax would be imposed, paid, and collected by the Department of State Revenue in the same manner as the state Sales Tax. Currently, 63 counties impose an innkeeper's tax. Total revenue collections for FY 2003 were $46.2 M. Under current law, an innkeeper's tax may only be imposed by a county. There are approximately 500 cities and towns in Indiana. Under the bill, each of these cities or towns could potentially adopt an innkeeper's tax. (Under the current uniform innkeeper's tax statute, a county is already able to adopt an innkeeper's tax regardless of this proposal.)

If the Department were to process the tax, all revenues would be deposited into the unit innkeeper's tax account of the state General Fund. Amounts of the tax would be paid monthly from the account by the Treasurer of State to the unit's fiscal officer upon warrants issued by the Auditor of State on or before the 20th day of each month.

Explanation of Local Revenues: (1) *Food and Beverage Tax:* The impact to local unit revenues would depend on local action. There are currently six counties and five municipalities that have already adopted a food and beverage tax. Total revenue generated by these 11 units in FY 2003 was $27.8 M.

The estimated annual revenue generated by a county could range from $11,000 to $6.1 M depending on the county.

(2) & (3) *Supplemental Auto Rental Excise Tax and Innkeeper's Tax:* The impact of these provisions to local revenues would depend on local action.

Marion County currently imposes a 2% supplemental auto rental excise tax, with FY 2003 revenue reported at $1.77 M. As described in *Explanation of Local Expenditures*, the bill would allow a supplemental auto rental excise tax to be adopted at a rate of 5% of the gross retail income received by the retail merchant for a rental.

The bill would allow an innkeeper's tax rate of no more than 5% on the gross retail income from lodging in addition to the state Sales Tax.

Distribution of Revenue: Under the bill, revenue generated from a food and beverage tax, innkeeper's tax, or supplemental auto rental excise tax may be used to reduce a local unit's property tax levy in the ensuing budget year; provide property tax relief to taxpayers or classes of taxpayers; or pay debt service or lease rentals on bonds, leases, obligations, or any other evidence of indebtedness of the local unit. Revenue may also be used: to pay the cost of a capital project; as operating revenue; for payment of pension liability; or any other purpose the unit's fiscal body determines. The Department of Local Government Finance would not be able to reduce a unit's property tax levy by the amount of revenue received from these taxes adopted under these provisions.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Local units of government.

Information Sources: U.S. Census Bureau; *Indiana Handbook of Taxes, Revenues, and Appropriations*; Bob Walls, Department of State Revenue.

Fiscal Analyst: Chris Baker, 317-232-9851.